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7 *T. McCarthy, and P. Quinn*

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION
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12
13 **HOPE MAGEE, et al.,**

14 Plaintiffs,

15 **v.**

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17 **A. CHRISTIANSON, et al.,**

18 Defendants.
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No. 1:21-cv-00670-DAD-SKO

**STIPULATION AND ORDER
EXTENDING TIME FOR DEFENDANTS
ANGLEA, LINDSEY, McCARTHY, AND
QUINN TO RESPOND TO COMPLAINT**

(Doc. 17)

Judge: Hon. Sheila K. Oberto
Trial Date: T.B.D.
Action Filed: April 22, 2021

1 Under Civil Local Rule 143, Plaintiffs Hope Magee and Paul Shaw, and Defendants
2 Anglea, Lindsey, McCarthy, and Quinn (the State Defendants) stipulate and agree that the time
3 for the State Defendants to respond to the First Amended Complaint (ECF No. 7) is extended to
4 September 2, 2021.

5 Dated: August 9, 2021

Respectfully submitted,

7 By: /s/ Brian Dunn (as authorized on 8/6/21)
8 Brian Dunn
9 The Cochran Firm
10 *Attorneys for Plaintiffs Hope Magee and Paul*
11 *Shaw*

12 Dated: August 9, 2021

13 By: /s/ Jeffrey T. Fisher
14 Jeffrey T. Fisher
15 Supervising Deputy Attorney General
16 *Attorney for Defendants H. Anglea,*
17 *J. Lindsey, T. McCarthy, and P. Quinn*

ORDER

Plaintiffs filed their first amended complaint on June 28, 2021. (Doc. 7.) Defendant Timothy McCarthy (“Mr. McCarthy”) was personally served on July 1, 2021. (Doc. 14.) Mr. McCarthy’s responsive pleading was therefore due twenty-one (21) days after service, or July 22, 2021.¹ Fed. R. Civ. P. 12(a)(1)(A)(i). No proofs of service have been filed for Defendants Hunter Anglea², Jerry Lindsey, and Patricia Quinn. (*See* Docket.)

On August 9, 2021, Jeffrey T. Fisher, Esq., filed a notice of appearance on behalf of Defendants McCarthy, Anglea, Lindsey, and Quinn (collectively, the “State Defendants”). (Doc. 16.) On that same date—eighteen days after Mr. McCarthy’s responsive pleading deadline—Plaintiffs and the State Defendants (collectively, the “Parties”) filed the above “Stipulation Extending Time for Defendants Anglea, Lindsey, McCarthy, and Quinn to Respond to Complaint.” (Doc. 17.)

Although the Court may extend time to file a responsive pleading after the deadline has expired because of “excusable neglect,” Fed. R. Civ. P. 6(b)(1)(B), no such excusable neglect has been articulated—much less shown—here. Notwithstanding this deficiency, given the absence of bad faith or prejudice to Plaintiffs (as evidenced by the Parties’ agreement to the extension of time), and in view of the liberal construction of Fed. R. Civ. 6(b)(1) to effectuate the general purpose of seeing that cases are tried on the merits, see *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010), the Court GRANTS the Parties’ stipulated request. *The Parties are cautioned that future post hoc request for extensions of time will be viewed with disfavor.*

Accordingly, IT IS HEREBY ORDERED that Defendants Timothy McCarthy, Hunter Anglea, Jerry Lindsey, and Patricia Quinn shall have to and including September 2, 2021, within which to file a responsive pleading.

IT IS SO ORDERED.

Dated: August 10, 2021

/s/ Sheila K. Oberto

¹ The docket does not reflect that any of the defendants was served with the initial complaint.

² Defendant Anglea’s name appears to have been misspelled as “Angela” in both the initial and amended complaints. (*See* Docs. 1, 7.)

UNITED STATES MAGISTRATE JUDGE

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